

PROPOSED

RPA NUMBER (HR USE ONLY)

21-340

ALERT: This form is mandatory for all Requests for Personnel Action (RPA).

INSTRUCTIONS: Before completing this form, read the instructions located on last page.

Section A: Position Profile

A. DATE 5/9/2022	B. APPOINTMENT EFFECTIVE DATE	C. INCUMBENT NAME Vacant
D. CIVIL SERVICE CLASSIFICATION Attorney III	E. POSITION WORKING TITLE Attorney III	
F. CURRENT POSITION NUMBER 695-250-5795-001	G. PROPOSED POSITION NUMBER (Last three (3) digits assigned by HR)	
H. OFFICE / SECTION / UNIT / PHYSICAL LOCATION OF POSITION Office of Legal Services / West Sacramento	I. SUPERVISOR NAME AND CLASSIFICATION Sahana Ayer, Chief Counsel	
J. WORK DAYS / WORK HOURS / WORK SHIFT (DAY, SWING, GRAVE) MONDAY – FRIDAY, 8:00AM – 5:00PM	K. POSITION REQUIRES: FINGERPRINT BACKGROUND CHECK <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO DRIVING AN AUTOMOBILE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

Section B: Position Functions and Duties

Identify the major functions and associated duties, and the percentage of time spent annually on each (list higher percentages first).

	Information Technology Domains (Select all domains applicable to the incumbent's duties/tasks.) <input checked="" type="checkbox"/> Business Technology Management <input type="checkbox"/> IT Project Management <input type="checkbox"/> Client Services <input type="checkbox"/> Information Security Engineering <input type="checkbox"/> Software Engineering <input type="checkbox"/> System Engineering
	Organizational Setting and Major Functions <p>Under the general direction of the Chief Counsel (CC), the Attorney III advises the California Department of Technology (CDT) and its executives and management on complex and sensitive administrative and legal matters affecting the department's operations, including but not limited to Regulations and Privacy. Responsibilities include:</p> <p>The Attorney III acts as a Privacy Attorney and serves as an expert on law, regulations, policies and procedures related to the privacy of health information. The Attorney advises, in consultation with the CC, the Director and Executive staff on privacy issues, handles all privacy issues surrounding breaches of information privacy and security, develops and implements privacy policies and procedures for CDT programs and monitors program compliance, analyzes, interprets and provides counsel on proposed privacy legislation, and drafts contractual documents, including Business Associate Agreements, for all CDT programs that need to ensure the protection of the CDT's confidential data. The Attorney III has expertise in the area of privacy protection and is required to have a full understanding of complex laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Health Information Technology for Economic and Clinical Health (HITECH) Act, the Information Practices Act of 1977 (IPA), and other state and federal privacy laws and regulations. The Attorney III also functions in a lead capacity and mentor with respect to other attorneys within the Office of Legal Services (OLS).</p>
% of time performing duties 30%	Essential Functions (Percentages shall be in increments of 5, and should be no less than 5%.) <ul style="list-style-type: none"> • Functions as a subject matter expert for the CDT in the area of privacy law, which includes the HIPAA, the IPA, and HITECH Acts, and other complex federal and statutory schemes. • Provides, in consultation with the CC, the Director and Executive Staff, legal analyses and advice, and policy recommendations, on all Department matters concerning federal and state laws, regulations, policies and procedures related to privacy. • Drawing on their specialized knowledge of applicable federal and state legal requirements, works with the Directorate, Executive Staff, GovOps, and top-level decision makers in other departments, and stakeholders, to develop and implement innovative solutions, to complex problems of the CDT with respect to privacy law. • Develops privacy-related policies, procedures and documentation for the CDT as required by HIPAA and other state and federal privacy law. • Drafts, reviews and negotiates the CDT's complex and sensitive privacy contracts, data use agreements, and various other legal documents to ensure that confidential Departmental

<p>% of time performing duties</p> <p>25%</p>	<p>data is adequately safeguarded and is used and disclosed in compliance with state and federal laws relating to privacy. These data use agreements and privacy contracts include HIPAA Business Associate Agreements and information privacy and security requirements contract exhibits.</p> <ul style="list-style-type: none"> Analyzes some of the Department's more complex privacy/security incidents, and initiates and/or implements responses (reporting, training, referral for discipline) as required for compliance with state and federal privacy laws. Provides privacy law expertise on CDT's confidential data privacy/security breach legal issues, including the application of federal and state privacy laws – both for those applicable to the CDT and to the CDT's contractual business partners and other data recipients. Coordinates some of the more complex legal breach notifications by CDT's programs and contractual business partners to affected patients, clients, employees, and other individuals whose confidential information is breached.
<p>25%</p>	<ul style="list-style-type: none"> Provides verbal and written legal advice to the CDT with respect to all matters relating to the work of the CDT Conducts legal research and analysis. Provides advice and support on diverse and complex legal issues involving information technology data, IT procurement, human resources, and other administrative and departmental programs, including interpreting State and Federal statutes and regulations. Consults with staff and advises them on how various statutes and regulations affect ongoing and proposed departmental activities. Analyzes and assists with developing strategies on the more complex legal and administrative matters. Recommends action on State and Federal legislation, and rules and regulations. Consults with the CDT's CC, as well as the Attorney General's Office, and other outside counsel as necessary to ensure comprehensive representation of the CDT's best interest.
<p>10%</p>	<ul style="list-style-type: none"> Provides legal consultation and support on procurement and contract issues. Researches and gives advice on contract disputes, including noncompliance with terms and conditions of contracts. Prepares vendor contract termination notices as required. Oversees contracting requirements including personal services contracts and compliance with Government Code section 19130. Reviews contracts and purchase orders prior to submission to Department of General Services (DGS) legal; represents the CDT in contract challenges before the DGS. Assists with developing language revisions for any changes the CDT proposes to the State general contracting provisions. Manages complex calendars, requiring the ability to make decisions on scheduling commitments that best utilizes staff time.
<p>10%</p>	<ul style="list-style-type: none"> Provides general privacy legal and disclosure analysis in support of departmental Centers and Programs. Assists with more complex external compliance activities and audits conducted both internally and externally related to privacy. Acts as a lead in developing and overseeing privacy training, the review of privacy legislation, and providing general privacy legal review for internal and external stakeholders. Responds to requests for information regarding legislation concerning regulatory issues. Responds to requests from private industry and businesses' concerns for information on proposed, new, and existing regulations. Responds to requests to the CDT under the Public Records Act. Acts as the CDT's Statement of Economic Interests Filing Official. Advises on potential conflicts of interest under the Political Reform Act. Provides consultation on Incompatible Activities. Drafts legal memoranda, opinions, correspondence, pleadings, and other legal documents. Assist with preparation of administrative and legal policy to conform to mandated State and federal laws, and control agency mandates. Assist with drafting regulations and notices.

Work Environment Requirements

- May be required to travel between the West Sacramento location of the CDT and other department campuses, and other offices may be required.
- May be required to carry a cell phone or other communication device.

Allocation Factors (Complete each of the following factors.)

Supervision Received:

Supervision and direction received from the CC is general in scope and nature depending on the particular project or assignment. The Attorney III works independently, and progress will be reported and monitored on a weekly basis for issues requiring management attention, additional or clarifying direction, and review of completed work. All work products produced by the Attorney III are subject to CC review and senior executive approval.

Actions and Consequences:

Decisions and recommendations made by the Attorney III can have a serious and high economic impact on customer programs and mandates. Poor judgment on the part of the Attorney III can result in organizational deficiencies and adverse legal actions. Because of the CDT's public visibility, failure to comply with the applicable regulations, statutes, and policies could produce significant negative impacts to the Governor's Office and Administration, and could result in loss of public confidence and adverse press.

Personal Contacts:

The Attorney III works closely with CDT executives and managers, control agencies, and all levels of government, and constituents in the customer, stakeholder, and vendor communities.

Administrative and Supervisory Responsibilities Indicate "None" if this is a non-supervisory position.)

None

Supervision Exercised:

None but may act in a lead capacity over staff.

Other Information

Desirable Qualifications: (List in order of importance.)

- Current member in good standing with the California State Bar.
- Experience drafting personal services justifications pursuant to Government Code section 19130, and drafting, negotiating, and interpreting contracts.
- Ability to analyze administrative policies, organization, procedures, and practices.
- Ability to integrate the activities of a diverse program to attain common goals.
- Ability to gain the confidence and support of top-level administrators and advise them on a wide range of administrative matters.
- Ability to develop cooperative working relationships with representatives of all levels of government, the public, and the Legislative and Executive Branches.
- Ability to analyze the more complex problems and recommend effective courses of action.
- Ability to analyze problems and apply legal principles and precedents to a particular set of facts.
- Excellent writing, verbal, and organizational skills.
- Ability to present statements of fact, law, and arguments clearly and logically in written and verbal form.
- Ability to draft rules and regulations and proposed legislative measures; and perform legal research.
- Ability to prepare and review reports.

Desired Knowledge Base:

- The organization and functions of the California state government, including the organization and practices of the Legislature and the Executive Branch.
- Principles, practices, and trends of public administration, organization, and management.

- Program development and evaluation.
- Public Records Act requirements and exceptions.
- Methods of administrative problem solving.
- State and Federal employment laws including Civil Service Act; Civil Rights Act, Title VII; Americans with Disabilities Act; Fair Employment and Housing Act; Fair Labor Standards Act, Ralph C. Dills Act, etc.
- Legal principles and their application.
- Legal procedures and terminology.
- Fiscal practices, contracts, tort liability.
- Public contract law.
- Constitutional and administrative law.
- Court procedures and rules of evidence.
- Procedures involved in the purchase and transfer of real property.
- Financial and accounting laws of the State of California.

INCUMBENT STATEMENT: I have discussed the duties of this position with my supervisor and have received a copy of the duty statement.

INCUMBENT NAME (PRINT)	INCUMBENT SIGNATURE	DATE
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SUPERVISOR STATEMENT: I have discussed the duties of this position with the incumbent.

SUPERVISOR NAME (PRINT)	SUPERVISOR SIGNATURE	DATE
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% of time
performing duties
25%

- Drafts and reviews the CDT's sensitive privacy contracts, data use agreements, and various other legal documents to ensure that confidential Departmental data is adequately safeguarded and is used and disclosed in compliance with state and federal laws relating to privacy. These data use agreements and privacy contracts include HIPAA Business Associate Agreements and information privacy and security requirements contract exhibits.
- Analyzes some of the CDT's privacy/security incidents, and initiates and/or implements responses (reporting, training, referral for discipline) as required for compliance with state and federal privacy laws.
- Provides privacy law consulting on CDT's confidential data privacy/security breach legal issues, including the application of federal and state privacy laws – both for those applicable to the CDT and to the CDT's contractual business partners and other data recipients.
- Coordinates legal breach notifications by CDT programs and contractual business partners to affected patients, clients, employees, and other individuals whose confidential information is breached.

25%

- Provides verbal and written legal advice to the CDT with respect to all matters relating to the work of the CDT.
- Conducts legal research and analysis.
- Provides advice and support on diverse and complex legal issues involving information technology data, IT procurement, human resources, and other administrative and departmental programs, including interpreting State and Federal statutes and regulations.
- Consults with staff and advises them on how various statutes and regulations affect ongoing and proposed departmental activities.
- Analyzes and assists with developing strategies on complex legal and administrative matters.
- Recommends action on State and Federal legislation, and rules and regulations.

10%

- Provides legal consultation and support on procurement and contract issues.
- Researches and gives advice on contract disputes, including noncompliance with terms and conditions of contracts.
- Prepares vendor contract termination notices as required.
- Oversees contracting requirements including personal services contracts and compliance with Government Code section 19130.
- Reviews contracts and purchase orders prior to submission to Department of General Services (DGS) legal; assists in representing the CDT in contract challenges before the DGS.
- Assists with developing language revisions for any changes the CDT proposes to the State general contracting provisions.
- Manages complex calendars, requiring the ability to make decisions on scheduling commitments that best utilizes staff time.

10%

- Provides general privacy legal and disclosure analysis in support of departmental Centers and Programs.
- Assists with external compliance activities and audits conducted both internally and externally related to privacy.
- Works with CC/Attorney IV to develop and oversee privacy training, the review of privacy legislation, and provide general privacy legal review for internal and external stakeholders.
- Responds to requests for information regarding legislation concerning regulatory issues.
- Responds to requests from private industry and businesses' concerns for information on proposed, new, and existing regulations.
- Responds to requests to the CDT under the Public Records Act.
- Advises on potential conflicts of interest under the Political Reform Act.
- Provides consultation on Incompatible Activities.
- Drafts legal memoranda, opinions, correspondence, pleadings, and other legal documents.
- Assist with preparation of administrative and legal policy to conform to mandated State and federal laws, and control agency mandates.
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INCUMBENT NAME (PRINT)

INCUMBENT SIGNATURE

DATE

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SUPERVISOR NAME (PRINT)

SUPERVISOR SIGNATURE

DATE